IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

C.W.P. No. 20537 of 2006
Date of Decision: 27.11.2007

Sadhu Singh.

..... Petitioner through Shri Harsh Bunger, Advocate.

Versus

Punjab Urban Development Authority (PUDA) and others.

..... None for Respondents.

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

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1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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VIJENDER JAIN, CHIEF JUSTICE

The petitioner has invoked the jurisdiction of this Court under Articles 226 and 227 of the Constitution of India for quashing the action of respondent nos. 2 and 3 in not sanctioning the site plan submitted by him. He has also prayed for issuance of a writ in the nature of mandamus directing the said respondents to sanction the site plan and issue No Due Certificate regarding non-construction since 22.7.2002, i.e., the date when the plan was submitted for sanction, till its approval. Still further, he has sought a direction to the respondents not to resume the site on account of non-construction.

A perusal of the averments made in the writ petition shows that

the petitioner purchased plot no.781 situated in Urban Estate, Phase-II, Jalandhar, measuring 500 square yards, from Sadhu Singh son of Sucha Singh, the original allottee, vide sale deed dated 12.11.1997. Before raising construction thereon, he submitted a site plan along with the requisite fee and other relevant documents on 22.7.2002 to the respondents for necessary approval. The site plan was duly received in the office of the respondents which is evident from receipt No.28 in Book No.951 dated 22.7.2002. Despite the fact that the site plan was complete in all respects, the respondents did not sanction the same. Having been frustrated in his attempts to get the site plan sanctioned, which was not being done for no apparent reason, the petitioner has approached this Court.

On 1.2.2007, notice of motion was issued for 26.4.2007 on which date Shri Navdeep Sukhna, Advocate appearrd for the respondents and prayed for grant of time to file counter affidavit. Four weeks' time was granted to him to do the needful and the matter was adjourned to 21.8.2007.

On 21.8.2007, a written request for adjournment was received on behalf of the counsel for the respondents, which was granted and the matter was adjourned to 27.11.2007.

When the matter was taken up today, no one appeared for the respondents. Even the counter-affidavit has not been filed despite the fact that the time was granted way back on 26.4.2007.

We are extremely incensed by the attitude of the respondents-authorities, who have shown scant respect to the proceedings of this Court. We are, therefore, not inclined to delay the matter further by granting any

adjournment.

In this view of the matter, we are left with no other option but to proceed on the premise that the averments made in the writ petition are correct.

As noticed above, the petitioner submitted a site plan on 22.7.2002 to the respondents for approval in order to enable him to raise construction on the plot in question. He did this pursuant to the provisions of Rule 3 of the Punjab Urban Planning and Development Authority (Building) Rules,1996 (for short, `the Rules'), which is reproduced below:-

> "3. Erection or re-erection without permission. [Section 180(2)(i)]. Subject to the provisions of the Act and other provisions of these rules, no person shall commence the erection or re-erection of any building on any site without previous sanction of the competent authority."

Rule 12 of the Rules lays down that if the competent authority fails to pass orders sanctioning or refusing to sanction such erection or re-erection, the plans shall be deemed to have been sanctioned. It reads as under:-

> "12. Presumption of sanction. [Section 180(2)(i)]. If the competent authority neglects or omits, within sixty days of the receipts from any person of valid application, complete in all respects to erect or re-erect a building, to pass orders sanctioning or refusing to sanction such erection or re-erection, the plans shall without prejudice to the provisions of these rules

and the restrictions specified for erection or re-erection of buildings be deemed to have been sanctioned and the applicant may proceed with the erection or re-erection of building or carry out any development work as described in the application or any accompanying documents but not so as to contravene any of the provisions of the Act and these rules made thereunder and the restrictions specified for erection or re-erection of buildings."

Since the averments made by the petitioner have remained uncontroverted and Rule 12 of the Rules provides for presumption of sanction of the plan on the failure of the competent authority to pass an order within sixty days of the submission thereof, we are of the opinion that his prayer deserves acceptance.

Accordingly, the writ petition is allowed and the respondents are directed to release the sanctioned plan of the petitioner forthwith within a period of four weeks from today.

(Vijender Jain)
Chief Justice

November 27,2007
"SCM"

(Mahesh Grover)
Judge